D.B. CIVIL WRIT PETITION NO.9214/2006

Vivek Kumar Gaur
Vs.
Rajasthan High Court, Jodhpur

DATE OF ORDER :: 24-04-2007

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri Sanjay Pareek, for the petitioner.

This writ petition has been filed seeking direction upon the respondents to reinstate the petitioner on the post of Lower Division Clerk with effect from 7.7.2001 with all consequential benefits.

Brief facts of the case are that the petitioner was appointed on probation on the post of clerk in the Rajasthan High Court on 4.1.2000. On 13.3.2001 he was placed under suspension in the wake of criminal case instituted by one Jethmal Agarwal, an employee of the High Court, alleging that sum of Rs.35,000/- was stolen from his office table drawer. The case of the petitioner is that he was placed under suspension on suspicion and without waiting for the outcome of the criminal case, decision was taken not to extend the appointment. Further case of the petitioner is that he was ultimately acquitted in the criminal case on 20.7.2005 and in the circumstances, he is entitled to reinstatement, and the rejection of his prayer to that effect is arbitrary and illegal.

Copy of the judgment of the criminal case has been brought on record as annexure-7. From perusal of the same it appears that the petitioner was given benefit of doubt. As a matter of fact, the money (Rs.35,000/-) was recovered from the house of the petitioner where it was kept in a cane. Though the petitioner was acquitted of the criminal charge, it was open to the respondent to take an independent decision to continue his employment which was on probation. Considering the nature of his conduct, decision was taken not to reinstate the petitioner despite his acquitted in the criminal case.

We find no merit in the writ petition which is accordingly dismissed.

[MOHAMMAD RAFIQ],J. **[S.N.JHA],CJ.**

Praveen